

9 FAM 41.104 Notes

(TL:VISA-493; 11-20-2002)
(Office of Origin: CA/VO/L/R)

9 FAM 41.104 N1 Interpreting “Competent Authority”

(TL:VISA-192; 05-14-1999)

The term “competent authority” as used in INA 101(a)(30) means an official who is duly authorized to issue passports by the government of the country of issuance. The term is not linked with the maintenance of diplomatic relations with, or recognition by, the United States. Accordingly, the Department will determine, on a case-by-case basis, whether a passport-issuing authority is a “competent authority” within the meaning of INA 101(a)(30).

9 FAM 41.104 N2 Countries Having Agreements With United States on Extended Validity of Passports

9 FAM 41.104 N2.1 Extending Validity Beyond Expiration Date in Passport

(TL:VISA-327; 10-17-2001)

a. Some countries have agreements with the United States whereby their passports are recognized as valid for return to the country concerned for a period of six months beyond the expiration date specified in the passport. The effect of these agreements is to extend the period of validity of the passport for six months beyond the expiration date appearing on the face of the document, for the purposes of INA 212(a)(7)(B)(i)(I).

b. As passports issued by the countries listed in 9 FAM 41.104 Exhibit I meet the requirements of INA 212(a)(7)(B)(i)(I) until the date shown for expiration, the consular officer could issue a visa at any time prior to that date. However, such action might not be practical when only a very narrow margin of time remains.

c. The consular officer shall inform the visa recipient that admission into the United States will not be granted by the immigration authorities for a period extending beyond the actual expiration date shown in the passport, and that the alien’s stay in the United States cannot be extended beyond that date until an extension of the validity of the passport has been obtained.

d. The consular officer shall not issue a visa on the basis of an expired passport unless the applicant is able to present to the consular officer collateral documentation, which together with the expired passport, meets the requirements of INA 101(a)(30) and INA 212(a)(7)(B)(i)(I).

9 FAM 41.104 N2.2 Passport Validity Insufficient to Cover U.S. Visit

(TL:VISA-192; 05-14-1999)

If an applicant presents a passport valid for more than six months but not sufficient to permit admission for the entire period of stay contemplated, the consular officer shall urge the applicant to have the passport extended, renewed, or replaced before visa issuance. In the event that this is not feasible until after the alien's arrival in the United States, the officer may issue the visa. The officer shall then advise the applicant that the initial period of stay will be limited because of the limited validity of the passport. The consular office should also explain the procedures for seeking an extension of stay from INS. Except for aliens covered by the provisions of 9 FAM 41.104 N2.1, the passport must be valid for more than six months, since an alien presenting a passport valid for six months or less would be inadmissible at a port of entry.

9 FAM 41.104 N3 Effect of Restriction Placed on Use of Passports by Issuing Authority

9 FAM 41.104 N3.1 Applying Within Country of Issuance

(TL:VISA-2; 08-30-1987)

If an applicant for a nonimmigrant visa presents a valid passport in the country whose authorities have issued that passport, and if the passport contains an endorsement as not being valid for travel to the United States, the consular officer shall not issue a visa until the endorsement has been removed by the appropriate authorities. The reason for this is twofold:

(1) No useful purpose would be served in issuing a visa to an applicant who would, in effect, be forbidden to use that visa; and

(2) Issuance of a visa in such circumstances could be regarded as an attempt to circumvent the laws or regulations of the country in which the post is located.

9 FAM 41.104 N3.2 Applying Outside Country of Issuance

(TL:VISA-2; 08-30-1987)

If an applicant is applying for a visa in a country other than the one which issued the passport containing a restriction on travel to the United States, but the passport is otherwise valid and the alien is otherwise eligible, the consular officer may issue a visa without regard to such restriction.

9 FAM 41.104 N3.3 No Effect on Validity of Nonimmigrant Visa

(TL:VISA-192; 05-14-1999)

Limitations on the validity of a passport do not affect the validity of the nonimmigrant visa. For example, the fact that a passport has been limited by the issuing authority to a single trip to the United States would not preclude issuance of a visa valid for unlimited applications for admission, if so prescribed in the appropriate reciprocity schedule in 9 FAM Appendix C.

9 FAM 41.104 N4 World Service Authority Passports

(TL:VISA-2; 08-30-1987)

World Service Authority Passports are not acceptable as “passports” for visa issuing purposes. The World Service Authority is a private organization and not a “competent authority” within the meaning of INA 101(a)(30). The document is a 40-page, passport-size document with a bright blue cover with gold lettering.

9 FAM 41.104 N5 United Nations Laissez-Passer

(TL:VISA-192; 05-14-1999)

See 9 FAM 41.24 N5.

9 FAM 41.104 N6 Organization of American States Official Travel Document

(TL:VISA-192; 05-14-1999)

See 9 FAM 41.24 N6.2.

**9 FAM 41.104 N7 Travel Documents Presented by
Nationals of Entities Not Having Formal Diplomatic
Relations With United States**

(TL:VISA-192; 05-14-1999)

See 9 FAM 41.113 N3.